

original unbroken packages at San Francisco, Calif., alleging that the article had been shipped by Richardson & Robbins Co., from Dover, Del., on or about June 28, 1924, and transported from the State of Delaware into the State of California, and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Can) "Richardson & Robbins Boned Chicken Packed At Dover, Kent County, Del. U. S. A. Contents 6 Oz. Avoir." (or "13 Oz. Avoir.").

Misbranding of the article was alleged in the libel for the reason that the statements "Contents 6 Oz. Avoir." and "Contents 13 Oz. Avoir.," borne on the labels of the respective sized cans, were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On August 9, 1924, the Johnson-Locke Mercantile Co., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$5,700, in conformity with section 10 of the act, conditioned in part that the statements of the net weight be obliterated from the cans and that they be relabeled 5½ ounces and 12½ ounces, respectively.

W. M. JARDINE, *Secretary of Agriculture.*

12816. Adulteration and misbranding of apple jelly. U. S. v. Sweet Valley Products Co., a Corporation. Tried to the court and jury. Verdict of guilty. Fine, \$200. (F. & D. No. 18466. I. S. No. 3464-v.)

On June 19, 1924, the United States attorney for the Eastern District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Sweet Valley Products Co., a corporation, trading at Pinehurst, N. C., alleging shipment by said company, in violation of the food and drugs act as amended, on or about May 3, 1923, from the State of North Carolina into the State of Georgia, of a quantity of apple jelly which was adulterated and misbranded. The article was labeled in part: (Jar) "Sweet Valley Pure Apple Jelly Net Weight 7 Oz. The Sweet Valley Products Co. Sandusky, O. Pinehurst, N. C."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that the product was a jelly containing little or no apple and depending upon agar agar for jelling power. The average net weight of 10 jars examined was 6.89 ounces.

It was alleged in the first count of the information that the article was adulterated, in that a substance, to wit, agar agar, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and strength, and had been substituted in large part for apple jelly, which the said article purported to be.

Misbranding was alleged in the second count for the reason that the statements, to wit, "Pure Apple Jelly" and "Net Weight 7 Oz.," borne on the labels attached to the jars containing the article, were false and misleading, in that the said statements represented that the article consisted wholly of pure apple jelly and that each of the said jars contained 7 ounces of the article, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it consisted wholly of pure apple jelly and that each of said jars contained 7 ounces net weight of the said article, whereas it did not consist wholly of pure apple jelly but did consist in part of agar agar, and each of said jars did not contain 7 ounces of the article, but did contain a less amount. Misbranding was alleged in the said second count for the further reason that the article was offered for sale and sold under the distinctive name of another article, to wit, pure apple jelly.

Misbranding was alleged in the third count for the reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On September 27, 1924, the case came on for trial before the court and a jury. After the submission of evidence and arguments of counsel, the jury returned a verdict of guilty on the first and third counts of the information and a verdict of not guilty under direction of the court on the second count. The court thereupon imposed a fine upon the defendant company of \$100 on each of counts 1 and 3, a total of \$200, and costs.

W. M. JARDINE, *Secretary of Agriculture.*